

Internal Revenue Service

Department of the Treasury

**District
Director**

1100 Commerce St., Dallas, Texas 75242

Date: DEC 18 1992

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

You incorporated on [REDACTED] under the statutes of the State of [REDACTED] and meet the section 501(c)(3) organizational test with a purpose clause that states:

"Said corporation is organized exclusively for charitable, religious and educational purposes, including, for such purposes, the conducting of religious worship, and the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law)."

Your application for recognition of exemption described your activities as follows:

"The purpose of [REDACTED] on, [REDACTED] is to be a central organization which recognizes on a group basis the exemption under Section 501(c)(3) of subordinate organizations on whose behalf this organization is applying for recognition of exemption.

This organization as a central organization will furnish administrative assistance to its members, keep them informed as to current laws and regulations, give assistance and advice on ministerial problems, assist potential new members to obtain correct acceptable creative documents.

[REDACTED]

To examine these creative documents and make necessary comments to be certain that they are in compliance with the appropriate sections of the Internal Revenue Code and corresponding regulations.

It will provide a fellowship case that will provide opportunities for ministers to meet together to share experiences and educational opportunities, by holding seminars as a learning process with well known national speakers. This association will continually seek speakers with special anointed ministries as seminar speakers.

It will also provide attorneys, accountants and other professionals as speakers at its seminars to keep ministers abreast of current laws and regulations.

Our plans call for the development of Sunday School curriculum as well as teaching material for staff of subordinate members."

Your membership requirements as stated in your by-laws are as follows:

Membership

5.01 The standard of membership in this organization shall be: (a) Have creative documents that meet the requirements of Section 501(c)(3) of the Internal Revenue Code and pertinent regulations. (b) Propose to have an exempt activity that meets the requirements of Section 501(c)(3) of the Internal Revenue Code and pertinent regulations. (c) Submit a complete application stating specific details of their exempt activity and at least one reference. (d) To remain current on any annual fees.

Reception of Active Members

5.02 Persons or Organizations who desire to become members of the organizations shall make application to the President, who together with the Official Board will examine the Applications with respect to the Standards of Membership for final decision. All applicants who shall have met the membership requirements shall be received into the organization by Letter."

Your by-laws and application description for subordinates asks for organizational documents and sets out procedures similar to those required by the Internal Revenue Service for processing exemption applications under section 501(c)(3). You indicate subordinate status qualifies each organization for exempt status with the Internal Revenue Service as long as the organization meets its dues obligations.

[REDACTED]

You and your board president, [REDACTED] have a relationship with [REDACTED], a for-profit corporation which provides services to churches and other non-profits in incorporating and obtaining tax-exempt status. The relationship has included [REDACTED] as your board member and authorized representative, and your president as a part-time employee of [REDACTED].

Your budgets, including compensation packages, have changed from one response to the next response as have explanations relating to sources of income. One response indicated that in return for a \$ [REDACTED] membership fee, a subordinate would receive:

- (1) A statement that it is accepted as a member and meets the requirements of section 501(c)(3) and other pertinent sections of the Code.
- (2) Spiritual, financial and administrative counseling as needed or requested.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that:

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)..."

Rev. Rul. 72-369, 1972-2 C.B. 245, holds an organization formed to provide managerial and consulting services at cost to unrelated organizations does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 76-442, 1976-2 C.B. 148, holds a nonprofit organization whose primary activity is the offering of free legal services for personal tax and estate planning to individuals who wish to make current and deferred gifts to charity as part of their overall tax and estate planning does not qualify for exemption under section 501(c)(3) of the Code.

[REDACTED]

In Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978), the Tax Court held not exempt under section 501(c)(3) of the Code an organization formed to assist charitable organizations in their fundraising activity with individual contributors. The court found that the organization's activity of providing financial planning advice on charitable giving and tax planning to wealthy individuals referred to it by subscribing charitable organizations was a substantial nonexempt activity.

In National Association of American Churches v. Commissioner, 82 T.C. 18 (1984), the court held a central organization whose membership consisted of separately incorporated family missions and which also provided tax seminars for its members and assistance to them in incorporating under state law and in handling tax disputes, failed to establish that it was exempt as a religious organization under section 501(c)(3) of the Code. The court found the administrative record was inadequate to disprove that the members did not use the family missions as tax avoidance devices, and that the organization did not engage in the substantial nonexempt purpose of providing financial and tax advice. Furthermore, the court held the local family missions did not qualify for a group ruling citing Rev. Proc. 80-27, 1980-1 C.B. 43, which, among other requirements, states that a group ruling request will only be issued where the central organization receives a favorable ruling on exemption where detailed information is submitted concerning the activities and finances of the subordinate units.

The information that has been provided strongly suggests you are involved in a commercial fee-for-service arrangement facilitating tax exemption and tax advice to religious organizations. The bylaws provide that membership will be terminated for failure to pay the \$[REDACTED] fee. In fact, the information provided indicates you are involved in an operation similar to that of the organization described in National Association of American Churches v. Commissioner, supra, that failed to qualify for exemption under section 501(c)(3). See also Rev. Ruls. 72-389, 76-442, and Christian Stewardship Assistance, Inc. v. Commissioner, supra. You have proposed additional activities that may be educational but there is no clear indication of the substantiality and substance of these activities.

In addition, you have not been forthcoming in explaining your relationship to [REDACTED]. The original documents and submissions show that [REDACTED] had a significant role as a founder and initial board member. Furthermore, [REDACTED] is the proprietor of a for-profit consultancy that could make use of you as a resource for his own business.

[REDACTED]

Finally, your statements regarding payments to your president have not been consistent. The amount of the proposed salary has changed throughout the submissions. Originally, the proposed salary was \$[REDACTED] or \$[REDACTED] depending on the source. Then board minutes were "corrected" to conform the approved salary with proposed budget figures. Finally, the last round of information provided seems to indicate that your president will not receive a salary presently, but may do so in the future depending on the availability of funds. The new proposed budgets provide for compensation, but do not indicate to whom it will be paid.

The information you have provided fails to support an objective determination that you meet the requirements for exemption under section 501(c)(3) since you have not shown that your activities are primarily to accomplish an exempt purpose rather than a commercial fee-for-service business, that your relationship with [REDACTED] does not further the private interests of that corporation, and that there is not inurement to the president in the form of unreasonable compensation.

Accordingly, you are not exempt under section 501(c)(3) of the Internal Revenue Code and should file forms 1120. Contributions to you are not tax deductible by donors.

Similarly, even if you were found to be otherwise exempt under section 501(c)(3) of the Code, you have failed to establish that you would qualify as an "association of churches" under sections 509(a)(1) and 170(b)(1)(A)(i) of the Code.

Your request for a group ruling is moot since Revenue Procedure 80-27, 1980-1 C.B. 677 requires that the organization applying for a group ruling must have its own individual exemption before it can be considered for a group ruling.

If you agree with these conclusions please sign and return Form 8018.

If you decide to contest this determination in court, a petition for a declaratory judgment proceeding in the United States Tax Court, the United States Court of Claims or the United States District Court for the District of Columbia must be filed within ninety days from the date this determination was mailed to you.

[REDACTED]

Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgments. Refer to the enclosed Publication 892.

If you have any questions, please contact the person whose name and telephone number are shown at the top of this letter.

Sincerely,

[REDACTED]
District Director

Enclosures:

Form 6018

Publication 892

Copy of Teen Advice Memorandum

[REDACTED]

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

District Director
Dallas, Texas

NOV 03 1992

Taxpayer's Name: [REDACTED]

Taxpayer's Address: [REDACTED]

Taxpayer's Identification Number: [REDACTED]

Years Involved:

All Taxable Years

Date of Conference: [REDACTED]

Issues:

1. Whether [REDACTED] (hereinafter "M") qualifies for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.
2. Whether to qualify as an "association of churches" under sections 509(a)(1) and 170(b)(1)(A)(i) of the Internal Revenue Code, an organization's membership must be primarily, substantially, or some other percentage of churches.
3. What is the affiliation requirement between a central organization and its subordinates under a group exemption ruling?
4. Whether the Internal Revenue Service can refuse to grant a group exemption ruling if it appears that the exemption is being used to enable the central organization to provide exemptions to subordinates for a fee.

Facts

Purposes, Activities and Chronology of Application Process

M incorporated on [REDACTED] under the statutes of the state of [REDACTED] for "charitable, religious, and educational purposes, including . . . the conducting of religious worship, and the making of distributions" to other charitable organizations.

[REDACTED]

In its Form 1023 application of recognition of exemption, M described its activity as follows:

"The purpose of [M] is to be a central organization which recognizes on a group basis the exemption under section 501(c)(3) of subordinate organizations on whose behalf this organization is applying for recognition of exemption.

This organization as a central organization will furnish administrative assistance to its members, keep them informed as to current laws and regulations, give assistance and advice on ministerial problems, assist potential new members to obtain correct acceptable creative documents.

To examine these creative documents and make necessary comments to be certain that they are in compliance with the appropriate sections of the Internal Revenue Code and corresponding regulations.

It will provide a fellowship base that will provide opportunities for ministers to meet together to share experiences and educational opportunities, by holding seminars as a learning process with well known national speakers. This association will continually seek speakers with special anointed ministries as seminar speakers.

It will also provide attorneys, accountants and other professionals as speakers at its seminars to keep ministers abreast of current laws and regulations.

Our plans call for the development of Sunday school curriculum as well as teaching material for staff of subordinate members."

In its letter of [REDACTED], the district office notified M that it planned to request technical advice from the National Office and sent M a proposed statement of facts. M was given the opportunity to respond to clarify the facts, and did so in subsequent letters of [REDACTED] [REDACTED] and [REDACTED].

M's responses failed to describe how it would carry out its proposed program of assistance to affiliates in a variety of matters including federal and state tax exemption. Also, M did not describe the affiliates or the specific nature and extent of proposed educational seminars and curriculum development activities.

[REDACTED]

On [REDACTED] [REDACTED] a National Office conference was held with M. The IRS representatives solicited explanations of M's proposed activities from M's president. It was agreed that M would be given the opportunity to respond in writing to an information letter from the National Office in order for M to present a clear description of it's operations.

The IRS representatives at the [REDACTED] conference and the subsequent information letter of [REDACTED] advised M that it had the burden of proof in establishing that it met the legal requirements for tax exemption. Furthermore, the IRS representatives and the development letter informed M that a threshold requirement for the issuance of a group ruling is that the parent organization itself qualify for exemption, citing Rev. Proc. 80-27, 1980-1 C.B. 677.

The IRS representatives and the development letter informed M that its responses throughout the application process had been inadequate to make a determination on its exempt status. Furthermore, the information that had been provided suggested that M might be primarily involved in providing commercial services or conducting unrelated trade or business. As examples of such nonexempt activity the IRS representatives cited Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); and Rev. Ruls. 72-369, 1972-2 C.B. 245 and 76-442, 1976-2 C.B. 148.

M was asked to provide a detailed description of past, present and proposed activities. Furthermore, M was asked to describe each activity separately. A series of questions were presented in the development letter.

In response to a question to describe its activities in general, M responded as follows:

"What our plans are each meeting will be in a church that our members pastor, this includes Evangelistic, Missions, etc. to meet and use the facilities of the Church, to introduce new and old members of the association, with the Pastor of the Church, to discuss and receive input on what they see the need all around us being, Feeding and sheltering the Homeless, working with the Youth of today, Visiting the Nursing Homes, and Hospitals. Each of these areas we have someone that can specialize in and that person can present there [sic] need to the group of ministers if funds are needed for one area, then this need can be brought before its members. We know we can't

[REDACTED]

cure the whole world, but if we can help a few, it is better than walking away and helping no one."

M did not describe each of its programs separately as requested. No detail or specifics beyond the above statement was provided.

Asked to describe how, when, where, and by whom the activities would be conducted, M responded that its activity would begin only when IRS approval was obtained.

Membership Requirements, Acceptance Letters, and Fees

In Form 1023, M lists three requirements for membership: 1) Creative documents that meet the requirements of section 501(c)(3), 2) An exempt activity that meets the requirements of section 501(c)(3), and 3) A completed application stating specific details of the organization's activities and at least one reference. The bylaws provided by M with its application, "Constitution and Bylaws," list the same requirements for membership, but adds a fourth: "To remain current on any annual fees."

At Article II, Section 2.03, membership dues are required on or before May 1 of each year, otherwise, after 30 days, the parent organization will report in its annual filing with the IRS that such organization is no longer a valid member.

The bylaws list qualifications for subordinates which, besides agreeing to abide by a "doctrinal statement" of general Christian principles, asks for organizational documents and sets out procedures similar to those required by the Internal Revenue Service for processing exemption applications under section 501(c)(3). The bylaws, at Article II, Section 2.01(b)(1), even provide sample clauses for articles of incorporation identical to those suggested in the IRS's Publication 557, Tax Exempt Status for Your Organization.

In Article II, Section 2.06, the bylaws state: "Subordinate membership automatically qualifies each organization for exempt status with the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code, unless specifically excluded under provisions of the Internal Revenue Code or regulations."

The response to the development letter also lists membership qualifications that include a \$[REDACTED] fee and requirements similar to those required by the IRS for recognition of exemption under section 501(c)(3) of the Code.

[REDACTED]

M has provided a copy of the two letters of acceptance it plans to issue to new subordinates: 1) churches and, 2) publicly supported organizations. The letters, Exhibits D and F, attached to M's letter of [REDACTED], are virtually identical to official IRS determination letters.

Furthermore, the acceptance letters state: "As a subordinate member of [M] under this group exemption to be issued to us by the Internal Revenue Service, your organization will be entitled to all of the rights and privileges extended to those organizations who have made an application directly to the Internal Revenue Service." The benefits are specifically stated in the acceptance letter including exemption from federal tax, eligibility for deductible contributions, and collateral benefits such as reduced postal rates, exemption from state sales tax in some states, and "recognition of the validity of the licensing, commissioning or ordination of persons into the ministry."

Application for Ministerial Credentials

M provided a copy of its "Application for Ministerial Credentials." Besides the usual requests, such as name, address and other identifying information, the two-page form asks for two references from ministers, a photo of the applicant, and a photocopy of the applicant's driver's license. The final question on the form asks whether the applicant desires to be "licensed or ordained" and requests a \$ [REDACTED] fee.

Relationship With [REDACTED]

[REDACTED] the contact person on M's application, is the president of [REDACTED], a for-profit corporation which provides services to churches and other nonprofits in incorporating and obtaining tax-exempt status.

[REDACTED], M's president and treasurer, was a temporary, part-time employee of [REDACTED], as of M's [REDACTED] letter. [REDACTED] states that he has since resigned from [REDACTED]'s business.

M's [REDACTED] letter states that M's activity does not overlap with [REDACTED]'s, but that M was "created to assist ministries after the organizations have been incorporated and all work of [REDACTED] [REDACTED] have [sic] been completed."

[REDACTED]

[REDACTED] is listed as a member of the initial board of directors in the application and articles of incorporation, yet the original minutes of M's organizational meeting indicate [REDACTED] asked not to be placed on the board. The subsequent "corrected" minutes for that same meeting submitted with M's letter of [REDACTED] indicate [REDACTED] resigned as president, but remained on the board.

Asked to clarify whether or not [REDACTED] was on the board, M, in its [REDACTED] letter, stated that [REDACTED] would be an uncompensated director. However, the minutes of M's [REDACTED] board meeting show that [REDACTED] resigned from the board (and as president). M's letter of [REDACTED], which transmitted the [REDACTED] board meeting minutes, stated that [REDACTED] had resigned and was "no longer connected with [M] in any way." Yet that very letter, as well as a number of the succeeding letters from M to the IRS, were signed by [REDACTED] and written on his company's letterhead.

In its letter of [REDACTED], M emphasized that [REDACTED] was not on the board and would not represent it by "any power of attorney or any other way" and that [REDACTED] did not have the "Power to answer any questions for [M]." Board minutes of M's [REDACTED] meeting stated that "all relationship" with [REDACTED] was terminated (emphasis in the original).

Nevertheless, [REDACTED], along with [REDACTED], attended the National Office conference on [REDACTED]. Again asked to clarify [REDACTED]'s relationship to M in the development letter following the attempted conference, M responded: "[REDACTED] and I have been friends, we both are Ministers of the Gospel I helped him for one or two days a week Secretary, when he did not have the staff, as of this date we are friends and Ministers of the Gospel only." In the same letter M states [REDACTED] "is no longer on the Board of Directors or represented through form 2848 Power of Attorney for this organization."

In its proposed statement of facts, the district made the following statement: "You have indicated that the group exemption will not benefit the private practice [of [REDACTED]] or its owners in any way including compensating them for services rendered in the future." In response to that proposed statement, M answered: "In as much as [REDACTED] is in the business of assisting Non-Profit Organizations and has as clients at the present time [REDACTED] Non-Profit Organizations with Group Exemption Numbers (not including [M]) it is utterly ridiculous to make a statement that this Organization would never ask for help from [REDACTED]"

[REDACTED] in the distant future. However [M] is a present client without any payment for services."

Budgets and Compensation Packages

Proposed budgets submitted with the application show all of M's income to be from "fellowship fees." Asked to clarify the "fellowship fees," M explained in its letter of [REDACTED], that in return for the \$[REDACTED] membership fee, subordinates would receive:

- 1) A statement that the subordinate is accepted as a member and meets the requirements of section 501(c)(3) and other pertinent sections of the Code.

- 2) Spiritual, financial and administrative counseling as needed or requested.

However, M's letter of [REDACTED] states "the organization's sources of income will be from membership fees and free will offerings from subordinates and the general public" and that "newsletters will [be] the major source of fundraising" in the future. Asked for a copy of its newsletter and other publications in the development letter, M stated that "no Newsletter or Publications have been drafted pending IRS ruling." Asked for a copy of its fundraising plan in the development letter, M responded: "This Organization does not now or in the future plan to have fund raisers, the support of this Ministry will be 100% from the Membership Dues."

The application states M's president, [REDACTED], would have a salary of \$[REDACTED] a year. However, M submitted two conflicting versions of the minutes of the corporation's first meeting on [REDACTED]. The first version, submitted with the original application, indicates [REDACTED] was approved by the board to receive \$[REDACTED] a year of which \$[REDACTED] would be designated as a housing allowance. The second version, submitted with the [REDACTED] letter, states the board voted to compensate Claybrook with \$[REDACTED] for the first year "subject to increase of \$[REDACTED] within the next two years as funds are available." The minutes of the [REDACTED] board meeting are identical to the second version of the [REDACTED] minutes in regard to the compensation issue.

In its [REDACTED] letter, M stated it would not pay any salary to [REDACTED], only unspecified reimbursements. In response to the development letter, M stated no salary would be paid "for a few years, until this Ministry is 100% self supporting. If the funds become available a Secretary will be paid, at this time no Board Member will receive a salary." The proposed budgets submitted with the response to the development

letter show \$[REDACTED] in the fourth fiscal year for the expense item titled "Compensation of Officers, Directors and Trustees." The fiscal years are unspecified, and there is no explanation as to whom, and how much individually, will be paid in that category.

Statement of Policy in Applications for Affiliation

The original copy of M's "Application for Affiliation" contained a "Statement of Policy" which read, in part, that M "shall not have and shall never attempt to exercise a single attribute of power or authority over any organization, or over the messengers of the organizations in such wise [sic] as to limit the policy of the organization, but shall recognize the policy of the organization under one policy, the Lord Jesus Christ." In M's [REDACTED] response to the district's proposed statement of facts, M stated it could not locate the application with the quoted statement. Provided a copy of the original it had submitted, M stated that the "wording was incorrect" and submitted a new application with a statement of policy reading, in part, that M "will monitor its body and draw attention to areas where it feels that the weakness of it's subordinate wither [sic] by visitations, request for audio, or video cassettes, or any other methods that it might need. One error that will be monitored is the separation of Church and State, which is in conflict with the 501(c)(3) regulations."

Law

Section 501(c)(3) of the Internal Revenue Code provides for recognition of exemption of organizations organized and operated exclusively for charitable, religious, educational, and other stated purposes; no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3). Furthermore, an applicant organization has the burden of proving that it clearly meets all the requirements of the particular Code section under which it has applied. See

Kenner v. Commissioner (63-2 U.S.T.C. para. 9519) 318 F.2d 632 (7th Cir. 1963) and Cleveland Chiropractic College v. Commissioner (63-1 U.S.T.C. para. 9200) 312 F.2d 203, 206 (8th Cir., 1963).

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be recognized as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), 1946 C.B. 371, the Supreme Court stated, "This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) of the regulations defines "private shareholder or individual" as persons "having a personal and a private interest in the activities of the organization."

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for purposes specified in section 501(c)(3) of the Code unless it serves a public rather than private interest.

Section 1.501(c)(3)-1(e) of the regulations provides an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business.

Rev. Proc. 80-27, 1980-1 C.B. 677, provides the procedures under which recognition of exemption from federal income tax under section 501(c) of the Internal Revenue Code may be obtained on a group ruling basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. Section 4.01 of Rev. Proc. 80-27 requires that a central organization applying for a group

[REDACTED]

exemption letter must obtain recognition of its own exempt status.

Section 5 of Rev. Proc. 90-27, 1990-1 C.B. 514, 515 provides the standards for issuing determination letters with respect to exempt status as follows:

.01 A ruling or determination letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Any oral representation of additional facts or modification of facts as represented or alleged in the application for a ruling or determination letter must be reduced to writing over the signature of an authorized individual.

.02 Exempt status will be recognized in advance of operations if the organization can describe its proposed operations in sufficient detail to permit a conclusion that it will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must describe fully the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned by the organization for carrying out its activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations will be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

Rev. Rul. 72-369, 1972-2 C.B. 245, holds an organization formed to provide managerial and consulting services at cost to unrelated organizations does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 76-442, 1976-2 C.B. 148, holds a nonprofit organization whose primary activity is the offering of free legal services for personal tax and estate planning to individuals who wish to make current and deferred gifts to charity as part of their overall tax and estate planning does

[REDACTED]

not qualify for exemption under section 501(c)(3) of the Code.

In Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978), the Tax Court held not exempt under section 501(c)(3) of the Code an organization formed to assist charitable organizations in their fundraising activity with individual contributors. The court found that the organization's activity of providing financial planning advice on charitable giving and tax planning to wealthy individuals referred to it by subscribing charitable organizations was a substantial nonexempt activity.

In National Association of American Churches v. Commissioner, 82 T.C. 18 (1984), the court held a central organization whose membership consisted of separately incorporated family missions, and which also provided tax seminars for its members and assistance to them in incorporating under state law and in handling tax disputes, failed to establish that it was exempt as a religious organization under section 501(c)(3) of the Code. The court found the administrative record was inadequate to disprove that the members did not use the family missions as tax avoidance devices, and that the organization did not engage in the substantial nonexempt purpose of providing financial and tax advice. Furthermore, the court held the local family missions did not qualify for a group ruling citing Rev. Proc. 80-27, 1980-1 C.B. 49, which, among other requirements, states that a group ruling request will only be issued where the central organization receives a favorable ruling on exemption and where detailed information is submitted concerning the activities and finances of the subordinate units.

Rationale

The threshold requirement for any organization seeking a group exemption ruling is that the central organization qualify as an exempt organization, and, in this case, meet the requirements of an organization exempt under section 501(c)(3) of the Code. See Section 4.01 of Rev. Proc. 80-27 and National Association of American Churches v. Commissioner, supra. The organization must meet the standards provided under Rev. Proc. 90-27, supra, in order to be recognized by the Service as an exempt organization under section 501(c)(3).

In its application and subsequent submissions in response to requests for information, M has not provided clear descriptions of its activities, method of operation, relationship to private individuals, finances, etc. Furthermore, the organization has made a number of contradictory statements.

[REDACTED]

The information that has been provided strongly suggests M is involved in a commercial fee-for-service arrangement facilitating tax exemption and tax advice to religious organizations. The bylaws provide that membership will be terminated for failure to pay the \$[REDACTED] fee. In fact, the information provided indicates M is involved in an operation similar to that of the organization described in National Association of American Churches v. Commissioner, supra, that failed to qualify for exemption under section 501(c)(3). See also Rev. Ruls. 72-369, 76-442, and Christian Stewardship Assistance, Inc. v. Commissioner, supra. The organization has proposed additional activities that may be educational but there is no clear indication of the substantiality and substance of these activities.

In addition, M has not been forthcoming in explaining its relationship to [REDACTED]. The original documents and submissions show that [REDACTED] had a significant role as a founder and initial board member. Furthermore, [REDACTED] is the proprietor of a for-profit consultancy that could make use of M as a resource for his own business.

Finally, M's statements regarding payments to M's president have not been consistent. The amount of the proposed salary has changed throughout the submissions. Originally, the proposed salary was \$[REDACTED] or \$[REDACTED] depending on the source. Then board minutes were "corrected" to conform the approved salary with proposed budget figures. Finally, the last round of information provided seems to indicate that M's president will not receive a salary presently, but may do so in the future depending on the availability of funds. The new proposed budgets provide for compensation, but do not indicate to whom it will be paid.

Conclusion

The organization has failed to establish it meets the requirements for exemption under section 501(c)(3) of the Code, particularly in regard to satisfying the operational test, and inurement and private benefit prohibitions. See regulations, sections 1.501(c)(3)-1(a)(1), 1.501(c)(3)-1(c)(1), 1.501(c)(3)-1(c)(2), 1.501(c)(3)-1(d)(1)(ii), and 1.501(c)(3)-1(e), supra.

The information provided by M fails to support an objective determination that it meets the requirements for exemption under section 501(c)(3). An organization applying for tax exemption has the burden of proving that it clearly meets all

the requirements of the particular Code section under which it has applied. The failure of M to provide requested information as would enable a conclusion that it will conduct its activities in a manner which will accomplish exempt purposes is fatal to its request for a favorable determination. See Pius XII Academy, Inc. v. Commissioner, T.C. Memo 1982-97, aff'd without opinion, 711 F.2d 1058 (6th Cir.), cert. denied 464 U.S. 982 (1983).

Furthermore, we have determined that M does not meet the requirements for exemption under section 501(c)(3) of the Code because the organization is apparently operated for substantial nonexempt commercial purposes.

The other issues presented are moot because the instant organization has not provided sufficient information to establish that it meets the requirements of exemption under section 501(c)(3).

A copy of this Technical Advice Memorandum is to be given to the organization. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.